

COPYRIGHT AGENCY LIMITED®

# International copyright: treaties and organisations

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## More information

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As technology develops, copyright works can be reproduced and communicated beyond national borders with ease. International copyright protection is essential for copyright works to retain their value.

If a work protected under Australian law is copied freely in a foreign country, where that work is not protected, the distribution of illegitimate copies will undermine the market, eroding the value of legitimate copies.

What happens if your work is copied in a foreign country? Does the law of the country apply or does Australian law apply? And what are your obligations when copying a work written or published in a foreign country?

The copyright laws of each country are concerned only with actions that take place within that country. For example, Australian law will apply to copying within Australia no matter where the work was originally written or published. In the same way, copying in the United States will be regulated by US copyright law.

When a work written by an Australian is copied in Australia, clearly Australian law applies. The situation is more complex when works are used in another country. For instance, what if the work of an Australian author is published by an English publisher and subsequently copied in Malaysia?

Through a web of multilateral and bilateral treaties, copyright protection in certain foreign countries is guaranteed to meet established international standards.

Under these treaties, the works of Australian creators are protected in certain countries according to the law of that country. Similarly, Australian law protects the works of nationals of certain foreign countries in the same way that it protects the works of Australians.

Australia is a party to a number of international treaties that protect copyright material. These include the Berne Convention for the Protection of Literary and Artistic Works (Berne Convention) and the Universal Copyright Convention (UCC).

## Berne Convention

The Berne Convention was concluded in 1886, and now has over 100 member countries. It aims to protect the rights of authors by providing certain established standards of protection for their works. Two major international principles underlying the Berne Convention are:

- the principle of national treatment; and
- the principle of automatic protection.

The principle of national treatment allows the courts of a country to apply their national law to acts that occur within that country, rather than a foreign law. Decisions are therefore more likely to be soundly based, since judges will apply a law with which they are familiar.

Under the principle of automatic protection, a work will be granted protection even if it fails to satisfy formalities, such as registration or legal deposit, under the national law of a member country.

The Berne Convention covers a wide range of works including books, pamphlets and other writings, lectures, dramatic works and illustrations. Translations, adaptations, arrangements and collections are also protected. Generally, works are protected for 70 years after the author's death.

The works of nationals of all Berne Convention member countries are protected. Some works of authors who are not nationals of Berne Convention member countries may also be protected if the work was first or simultaneously published in a member country.



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The Berne Convention gives authors certain exclusive rights, including making or authorising translation, reproductions and public recitations; and protection of moral rights.

Each member country may permit certain uses of works in its legislation, such as a statutory licence for reproduction and communication of works by educational institutions. The Berne Convention limits the impact of such exceptions to the copyright owner's exclusive rights by providing that the normal exploitation of the work and legitimate interests of the author must not be affected.

### Universal Copyright Convention (UCC)

The UCC was concluded in 1952 under the auspices of the United Nations Education, Science and Cultural Organisation (UNESCO) in an attempt to incorporate a greater number of countries into the international copyright community. UCC protection is lower and more flexible than the Berne Convention. It was felt that it was better suited to the needs of developing countries.

The UCC embodies the principle of national treatment, but not automatic protection. A UCC member country is not required to give a foreign work automatic protection if national formalities for protection have not been met. Consequently, the © symbol, name and date of first publication should be placed on the work to give reasonable notice of claim of copyright.

Literary, scientific and artistic works are protected by the UCC. Generally, works will be protected for a minimum of 25 years beyond the life of the author.

The UCC requires member countries to provide minimum rights to rightsholders. Exceptions to these rights may be made as long as they do not conflict with "the spirit and provisions of this Convention".

### Reform of the conventions

The Berne Convention and UCC have been developed through 'revision' meetings at which all member states discuss reform. These revisions have been necessary to keep pace with technological developments. For a treaty to be revised, all the signatory States must agree to the revision.

### International enforcement

The enforcement of rights is one of the features of the Trade Related Aspects of Intellectual Property (TRIPS) Agreement under the General Agreement on Tariffs and Trade (GATT). Signatories to the GATT are required to implement national laws of a basic international standard and establish procedures for the effective enforcement of the copyright of national and foreign rightsholders.

The TRIPS Agreement under the GATT agreement is managed by the World Trade Organisation (WTO). As a WTO member, Australia has already amended its copyright legislation to comply with the requirements of the TRIPS agreement.

### Relevant international organisations

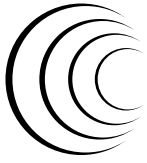
#### World Intellectual Property Organisation (WIPO)

WIPO is a specialised agency of the United Nations, responsible for the administration of international intellectual property instruments, including the Berne Convention. Based in Geneva, WIPO establishes international norms and standards, encourages the conclusion of new international treaties and the modernisation of national legislation. It also provides technical assistance to developing countries and assembles and disseminates information to interested parties.

#### International Federation of Reproduction Rights Organisations (IFRRO)

IFRRO links together collecting societies known as Reproduction Rights Organisations (RROs) with national and international rightsholder organisations, representing hundreds of thousands of creators worldwide, as members. IFRRO is eligible to speak before major international copyright organisations, including WIPO and UNESCO.

Copyright Agency Limited's Chief Executive, Jim Alexander, is currently a member of the IFRRO Board.



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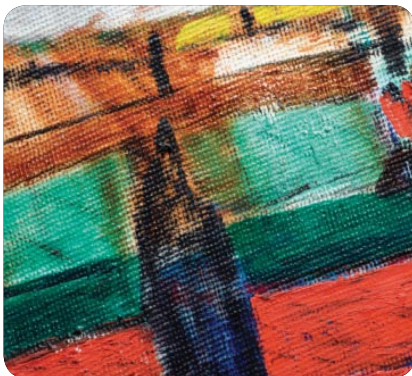
## Who is CAL?

Copyright Agency Limited (CAL) is a not-for-profit company set up by Australian authors, journalists, visual artists, photographers and publishers to manage part of their copying and communication rights. CAL is owned by its members, membership is free and members give CAL a non-exclusive licence in respect of their works.

## Code of Conduct

CAL is a signatory to the Code of Conduct for Copyright Collecting Societies (the Code). It is designed to ensure that the rights of all members and licensees are clearly stated, and that the operations of collecting societies are transparent and accessible.

The Code includes requirements for the Complaints Handling and Dispute Resolution procedures that collecting societies must follow. The Code and these procedures are available from CAL's website and on request.



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